

REMARKS

The Examiner has rejected claims 1-7 under 35 USC 102 as being anticipated by Takebe et al., namely USP 5,885,632.

Applicant respectfully submits that this rejection is incorrect. In particular, Applicant respectfully submits that Takebe et al. has the same common owner as the present application, has different inventorship (joint inventors consisting of three inventors in which one is in common with the present application), and is an issued patent which is in conflict with the present application. In addition, Applicant respectfully submits that the claimed invention of Takebe et al. is different from the claimed invention of Applicant's application. In particular, claims 1-7 of Takebe et al. are all essentially a process. In particular, claims 1-6 are a process and claim 7 is a product-by-process in which the invention is defined by the process steps. In contrast thereto, Applicant's invention as claimed by claims 1-7 are all a product. Since this is conflict between an application and a patent having different inventions, different inventorship and which was commonly owned at the time the application was filed, Applicant respectfully submits that pursuant to MPEP Section 804, the proper rejection would have been an obviousness double patenting rejection. Since the proper rejection should have been an obviousness double patenting rejection, Applicant respectfully submits that such a rejection can be overcome by filing of a terminal disclaimer. Therefore, filed together with this response is a terminal disclaimer. As a result, Applicant respectfully requests that the Examiner withdraw the rejection under 35 USC 102, anticipation, enter the terminal disclaimer and pass this case to issue.

Applicant further respectfully and retroactively requests a three month extension of time so as to respond to the Office Action. Please charge Deposit Account No. 11-1445 in the sum of \$950.00 as the fee.

Please charge any additional costs incurred by way of this amendment to Koda and Androlia Deposit Account No. 11-1445.

Respectfully submitted,

KODA & ANDROLIA

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I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office Fax No. (703) 872-9308 on July 14, 2004.


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